

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3
4 UNITED STATES OF AMERICA,

5 Plaintiff,

Criminal Action
No. 21-cr-10256-RWZ

6 v.

7 ADITYA HUMAD and
KINGSLEY R. CHIN,

8 Pages 1 to 36

9 Defendants.
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TRANSCRIPT OF HEARING VIA ZOOM VIDEOCONFERENCE

BEFORE THE HONORABLE CHIEF MAGISTRATE JUDGE M. PAGE KELLEY

UNITED STATES DISTRICT COURT

JOAN M. DALY, RMR, CRR

Official Court Reporter

John J. Moakley U.S. Courthouse

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Boston, Massachusetts 02210

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PROCEEDINGS

The defendants, Aditya Humad and Kingsley R. Chin,
are present with counsel. The Assistant U.S. Attorney is
present.)

10 THE CLERK: We are on the record with criminal case
11 number 21-10256, The United States versus Humad. The
12 Honorable M. Page Kelley presiding. Would counsel please
13 identify themselves for the record.

14 MR. LAZARUS: Good morning, Your Honor. David
15 Lazarus and David Derusha on behalf of the United States.
16 Sorry Mr. Libby.

17 MR. LIBBY: Good afternoon, Your Honor. Frank
18 Libby, Libby Hoopes Brooks, Boston, for Mr. Humad.

19 THE COURT: All right. Good afternoon, gentlemen.
20 And Mr. Humad, you're here, too, right?

DEFENDANT HUMAD: Yes, I am, Your Honor.

22 THE COURT: Can you see and hear everything on the
23 screen in front of you?

24 DEFENDANT HUMAD: Yes, I can. Thank you.

25 | THE COURT: Mr. Humad, you have the right to be

1 present in court for this hearing because it's a continuation
2 or a further detention hearing, and we have not been bringing
3 people to court these days because of COVID. So is it all
4 right with you if you waive your right to be present in court
5 and we conduct the hearing by Zoom?

6 DEFENDANT HUMAD: Yes, Your Honor.

7 THE COURT: Okay. And Mr. Libby, any objection to
8 that?

9 MR. LIBBY: None at all. Thank you, Your Honor.

10 THE COURT: All right. So we have a motion by
11 Mr. Humad to modify the amount of his appearance bond. And
12 then the government filed an opposition to that. I just
13 wanted to say I think this hearing has been designated as
14 being under seal. Is that correct, Mr. Viera?

15 THE CLERK: Yes. When I set the hearings on the
16 public docket, but because the motion was filed under seal,
17 it goes as under seal.

18 THE COURT: Okay. Is there any reason for this
19 hearing to be under seal? I'll start with you, Mr. Libby.

20 MR. LIBBY: Your Honor, I actually raised that with
21 Mr. Viera. I think where we landed was that the motion is
22 under seal and the particularized information within the
23 motion is under seal. But there may be a way we can navigate
24 this for purposes of the hearing where we can without
25 particularizing that information we can address it, we can

1 identify it at least generically for the Court's benefit and
2 conduct the matter without sealing the hearing.

3 THE COURT: I think what I'll say, I don't think we
4 have members of the public present. I can't really tell.
5 I know Ms. Anderson is my law clerk. I think what we'll say
6 is this hearing is not under seal. And if after the hearing
7 you feel that certain things should be sealed, I'm happy to
8 hear you.

9 I think the only issue is the amount of the
10 appearance bond. And I read your arguments, Mr. Libby, which
11 set out in detail your client's assets. It appears to me
12 that there's some reasons for not having him liquidate
13 certain assets, and then the real estate asset he needs to
14 live on.

15 And then I read what you filed, Mr. Lazarus,
16 talking about -- I'll let you talk about it. I'm happy to
17 hear you argue it, that he does have quite a bit of assets,
18 notwithstanding their nonliquid state, and that you think the
19 \$500,000 secured bond is appropriate here. So why don't I
20 hear from the government first. Then we'll ask you a couple
21 of questions, Mr. Libby. So go ahead, Mr. Lazarus.

22 MR. LAZARUS: Thank you, Your Honor. I'll be brief
23 because we did try to set it out in the papers.

24 THE COURT: Right.

25 MR. LAZARUS: I would just note that when you look

1 at the net worth that's provided by the defendant in his
2 motion to modify the bond. It's approximately [REDACTED] when
3 you factor in the 401(k), the investments, the equity in the
4 home and the cash. And he's asking to secure that with a
5 \$20,000 secured interest. When you do the math, I'm not a
6 mathematician as I think I've told this Court in several
7 prior hearings, but I believe that \$20,000 is only [REDACTED]
8 percent of his net worth as he acknowledges it.

9 That's a paltry sum when the Court is considering
10 whether it's sufficient to make sure he comes back to court
11 and doesn't flee. So what we've proposed is one of two
12 things. Either a secured interest against the equity in the
13 home or a restraining order against the investment account so
14 they don't have to be liquidated. They can continue to rise
15 and fall with the market. And those pledged as collateral.
16 So what were to happen if the defendant were to abscond, we
17 would move to forfeit the bond and seek an order authorizing
18 liquidation at that point of those investment accounts.

19 What it would also do is ensure the status quo of
20 the investment capital remains held. And if for some reason
21 there are significant changes in the market or the defendant
22 wants to change his investment strategy or diversify further,
23 whatever he wants to do, he's free to either bring that to
24 the government and see if we can work it out, or he can file
25 a motion. So he's not being prejudiced in any way if his

1 real fear is potentially liquidating those and potentially
2 paying a tax penalty to use them as collateral.

3 If it's a procedural objection to using the
4 investment for security, there are ample mechanisms in the
5 law to get around that. If it's an issue of he doesn't want
6 to do that because he wants to keep spending the money, [REDACTED]
7 percent of his net worth is flat out not enough of an
8 incentive given his presumably unstable employment.

9 By that I mean he's not having any income aside
10 from perhaps the company maybe paying for his car. But other
11 than that, he reported he hasn't made any money from the
12 company and it seems like he's spending money to live. His
13 sister, as we noted, is a member of the community, but she
14 rents her home and she wasn't willing to secure his
15 appearance. So his ties to the community are also thin.

16 So in light of those things, which we've set out in
17 our speaking indictment and previous hearings, we think it's
18 important that the defendant's appearance be properly
19 secured.

20 THE COURT: Okay. Mr. Libby? And I'd just ask you
21 what about if instead of liquidating the investment
22 portfolios if we just put a restraining order on them.

23 MR. LIBBY: Your Honor, if I may, I'll answer that.
24 If we're leaving everything else aside, and I'd like to be
25 heard on that, some of the government's additional points

1 made in its opposition. I think the least intrusive and
2 harmful way would be to place a lien on his property. It
3 does have equity in it. So that amount that I've identified
4 in our pleadings is under seal. But on the other hand, I
5 would like to speak to, rather than tying up the investments,
6 even though as Mr. Lazarus pointed out, they'd be within some
7 kind of framework where he could move them, but there are, in
8 fact, procedural concerns about this. Going to motion
9 practice to even touch those kinds of things, missed
10 opportunities in order to address those kinds of assets.

11 So first, if I may, we took to heart listening to
12 the Court's comments made in the course of Dr. Chin's hearing
13 I think it's last week where this whole exercise 3142 is
14 proportionate to the figures, and that's why we got the Court
15 the figures so you're not acting in a void, you're not in the
16 dark. You understand who this person is and what his current
17 posture is with respect to staying occupied, employed on the
18 one hand and meeting his daily and now, not insignificant,
19 legal obligations and reasonably assuring his appearance.

20 So that, all told, Your Honor, understand as we
21 pointed out Mr. Humad was taken into custody coming back to
22 the United States. Not leaving. Coming pack to the United
23 States. He always comes back. Travel, as the government
24 suggests, somehow is some kind of nefarious activity. It is
25 not. It is central to his job duties and responsibilities to

1 the companies. He's the point man for the investor pitches.
2 He goes to where investment money is located. That's what
3 he's doing.

4 There's nothing at all untoward about that. He was
5 visiting his parents in Dubai. Yes, they're in Dubai. His
6 mother is a U.S. citizen. Father is a medical doctor. They
7 have long range plans to move to the United States, to
8 relocate to the United States to be with their daughter who's
9 gainfully employed. She's an upstanding member of society, a
10 citizen here in the Boston area with her [REDACTED]
11 daughter who is much beloved by Mr. Humad whose plans to see
12 her this weekend include Friday night dinner, Saturday
13 soccer, and Sunday something else. I can't remember what it
14 was. He's deeply involved in her life. He's very family
15 oriented, very family oriented on that.

16 I'd like to underscore, Your Honor, that all of
17 this is legitimate activity on behalf of legitimate companies
18 with legitimate medical devices performing real value,
19 beneficial services, orthopedic surgeons. There's no
20 suggestion that these are somehow unnecessary surgeons or
21 this is a fly-by-night operation. To the contrary. He's
22 very deeply invested in this, wants to move the business
23 forward for the benefit of everybody here. He's perfectly
24 entitled to do that. These are allegations. This is not a
25 conviction. It should not be punitive, and I understand the

1 Court is not dealing with this in punitive. But to strike a
2 balance between ensuring his appearance, and making sure that
3 he still, in fact, has access to funds, so he can live, meet
4 his daily obligations, and provide and mount a serious
5 defense to these serious charges. Yes.

6 I've only been in the case two to three weeks. And
7 I've already found there are significant counterpoints and
8 defenses to these charges, and we'd very much like to go
9 after them and dig after them and get me up to speed. I've
10 missed out on four or five years of prior litigation in this,
11 false claims litigation where there had been negotiations
12 ongoing for months, which, in fact, Mr. Humad thought was
13 kind of leaning favorably. That's why he decided to take an
14 opportunity to see his parents with his sister and his niece
15 who were on the plane when he was escorted off.

16 He understood the promise of perhaps resolving
17 those false claims allegations. In fact, his counsel had
18 filed just a week before a motion with Judge Zobel to extend
19 his temporary appearance. I noted explicitly in the motion
20 that they were continuing their negotiations with the
21 government about resolving those, about resolving those
22 claims at which point negotiations shut down. The indictment
23 issued, and here he is in the lock up or in a courtroom
24 awaiting initial appearance with Your Honor when he's called
25 upon to pull from memory off the top of his head where his --

1 [technical issue]. There's no "discrepancy here." I don't
2 know if any one of us on the Zoom call could call that up on
3 a moment's notice completely and accurate.

4 So on that we see that recently the government
5 hearing words such as massive and voluminous, what-have-you,
6 all of the investigation that's gone on for years here is
7 coming our way in the next two to three weeks. I know
8 Mr. Weinreb and I are eagerly awaiting that stuff. But in
9 order to hit that meaningfully and to actually do the job
10 that we need to do properly, at least so far as Mr. Humad is
11 concerned, he needs to be able to be there and to support
12 that, to fund that effort.

13 So I would ask the Court to keep in mind, as you
14 always do, you typically do, in conducting this balancing
15 that contrary to what Mr. Lazarus' point of somehow making
16 this a linear assessment, that whatever percentage of his net
17 assets, it's more than that. It's his personal history, his
18 characteristics, who he is, and how he right now finds
19 himself fighting to defend his name, defend his charges, and
20 he wants an opportunity to do that reasonably. He does not
21 want to be backed into a corner where he's somehow rendered
22 impoverished and unable to do that.

23 The proposal that I set forth in our papers under
24 seal, and I won't identify them specifically right now, but
25 everybody on the call knows what it is, in fact, is a real

1 world incentive -- disincentive to flee to this defendant in
2 these circumstances right now. In fact, he is insistent that
3 he stay in this and meet these charges because of all the
4 hard work and effort and years of getting to the this point
5 for his piece of success in this country.

6 He's a United States citizen. He's not a citizen
7 of any other place. He wants to be here. This is his center
8 of his gravity right here for now and the future. For all
9 those things, Your Honor, we suggest that the bond configured
10 as we proposed is more than sufficient. In fact, it is
11 indeed, I submit, the least restrictive means of assurance
12 his appearance.

13 MR. LAZARUS: Your Honor, may I make one further
14 point briefly? I would just note that it would not be
15 unusual or in the government's view objectionable to put a
16 carve out on the restraining order for whatever reasonable
17 expenses the defendant might think he's going to incur on
18 perhaps a monthly basis. So if he does intend to liquidate
19 assets to pay for counsel or to live on, the restraining
20 order could certainly build that in to the order of the
21 Court. And so that would be one way to address that.

22 To under secure, to be theoretically be able to
23 allow the defendant to meet these expenses is to under secure
24 and to let him then dissipate the rest of his assets and
25 further disincentivize the need for him to return. Thank

1 you.

2 THE COURT: Okay. So what I'm inclined to do is to
3 ask counsel to do the necessary paperwork to restrain the
4 retirement account that's worth about [REDACTED], and that
5 would be obviously less than half of what I originally asked
6 him to post but quite a bit more than what he's asking for.
7 I think that strikes a good balance. I trust that this is,
8 in fact, all of his assets that I'm looking at in his motion.
9 And I think that's a big enough sum that that's going to be
10 meaningful.

11 So, Mr. Libby, any other comment about that?

12 MR. LIBBY: No, Your Honor. So far as I understand
13 it, to be sure we're talking about the number, [REDACTED] on the
14 401(k)?

15 THE COURT: Yes. I think I'm going to do what the
16 government talks about in footnote 2, entering a restraining
17 order directing that the investment portfolios be restrained
18 pending the outcome of the case. They're considered
19 encumbered for purposes of bail subject to declaration of
20 forfeiture on failure to appear under 18 U.S.C. Section
21 3146(d). And I'll ask the parties to work together to
22 effectuate that.

23 And I would like Mr. Humad to be able to invest or
24 whatever else it is he needs to do without withdrawing money
25 from the accounts.

1 MR. LIBBY: So I'm clear, Your Honor, if I may.

2 THE COURT: Yes.

3 MR. LIBBY: The [REDACTED] is the number. And it's
4 spread somehow jointly, severally across the 401(k) and the
5 investment accounts.

6 THE COURT: No. I thought the 401(k) retirement
7 account had roughly [REDACTED] in it.

8 MR. LIBBY: So we're talking 401(k)?

9 THE COURT: Yes.

10 MR. LIBBY: Not any general investment accounts?

11 THE COURT: Correct.

12 MR. LIBBY: Okay.

13 MR. LAZARUS: And, Your Honor, with respect to the
14 401(k), I'll obviously work with counsel. I'll need the
15 particulars of that account. I understand its value is just
16 shy of the [REDACTED] as reported in the papers. I would just ask
17 for the sake of clarity, and I think it meets what the Court
18 is directing, that we simply restrain that account in its
19 entirety without including any figures or facts.

20 So instead of saying [REDACTED], if that rises and
21 we're arguing over \$2,000 at the end of the day. It will be
22 easier, if it's okay, if we just restrain that retirement
23 account.

24 MR. LIBBY: David, it has to have a figure. And it
25 has to have [REDACTED] as the Court has concluded.

1 MR. LAZARUS: I will say it does not need a figure.
2 It's just the account itself.

3 THE COURT: I think we'll just do the account. As
4 of today, I don't want any money withdrawn from that account.
5 If the account rises to a higher level, then that's going to
6 be seized over time if it appreciates.

7 MR. LIBBY: So the restraining order as to the
8 entirety of the account and the reference to [REDACTED]
9 means --

10 THE COURT: So here's the idea, Mr. Libby. I'm
11 assuming over time his apartment will appreciate. Let's hope
12 so for everyone's sake, and also that his investment account
13 will appreciate. And so as his net worth rises, assuming
14 this case takes a year or two, then so will his 401(k) rise.
15 And so will the amount that the government is going to be
16 entitled to seize if he flees.

17 So the 401(k) is sort of frozen right now except he
18 can work within it if he needs to. Whatever is in there
19 belongs to the government if he doesn't show up for court as
20 he's required to.

21 MR. LIBBY: I'm trying to square that with the
22 [REDACTED] figure, Your Honor.

23 THE COURT: I believe there's roughly [REDACTED] in
24 that account now. So the account is seized as of today. And
25 then that's approximately how much he'll be on the hook for

1 if he doesn't come to court. But if it's worth a lot more
2 than that, the government is going to seize a lot more than
3 that.

4 MR. LIBBY: So the principal figure is going to be
5 [REDACTED] or is going to fluctuate over time? I'm trying to
6 be clear.

7 THE COURT: It will fluctuate over time, I presume.

8 MR. LIBBY: So it's account specific, not a number
9 within that account specific?

10 THE COURT: Right.

11 MR. LIBBY: Okay. I understand.

12 THE COURT: Is there anything else I can do for
13 anyone today.

14 MR. WEINREB: Your Honor, William Weinreb on behalf
15 of Dr. Kingsley Chin. I obviously have nothing to say about
16 Mr. Humad's bail. We're also awaiting a decision from the
17 Court on bond. If we could schedule a time for that. We're
18 eager -- as the Court knows, it kept Dr. Chin under his
19 preexisting conditions pending a decision on a bond by this
20 Court. And one of those conditions is that he can't travel,
21 and he's really struggling to try to keep his medical
22 practice going, and that's hindered by the restriction on
23 travel. So we'd just like to get that resolved.

24 THE COURT: Okay. You need to set up a hearing on
25 that.

1 MR. WEINREB: We both submitted arguments in our
2 papers. It's really at the Court's discretion. If the Court
3 wants a hearing, we're more than happy to argue it in person.
4 If the Court is inclined to decide it on the papers, that's
5 -- of course the government has a say in that, too. I think
6 the parties are in agreement, and Mr. Lazarus will correct me
7 if I'm saying this wrong, but I think the parties are in
8 agreement on the conditions other than the amount of a bond
9 or the degree to what the security for a bond should be.

10 MR. LAZARUS: Your Honor, I wasn't expecting to go
11 into the substance of this right now. I think Mr. Weinreb is
12 going to be no doubt correct that there are a number of areas
13 that we do agree on. I don't have it in front of me. And I
14 don't doubt that it's probably all of them except sort of how
15 we're going to secure his appearance.

16 We're fine if the Court would like a hearing,
17 obviously we'll be there. Whatever would assist the Court.
18 We're also fine resting on our papers. I'm just not prepared
19 to argue the substance of it right now. If the Court was
20 inclined, I would just ask for five minutes so I could
21 address it now.

22 THE COURT: If we were to have a brief hearing in a
23 few minutes, do you care if Dr. Chin is not here, Mr.
24 Weinreb?

25 MR. WEINREB: No, he would waive his appearance.

1 If we could address it today, I think that would be fine.
2 He's already told me that he's happy to have the argument
3 without him.

4 THE COURT: I don't want to ambush you,
5 Mr. Lazarus. Why don't we take a break until 10 past 2 and
6 you can come back. Is that okay with you, Mr. Lazarus, and
7 then we'll see, can we just square some things away or do we
8 need to set another hearing?

9 MR. LAZARUS: That's plenty of time, Your Honor,
10 and I appreciate it. If I could just say one more thing as
11 to the hearing as to Mr. Humad. The government heard the
12 Court say the hearing is not sealed, and we think the hearing
13 should not be sealed. If Mr. Libby would like to redact any
14 portions of the transcript where I mentioned specific
15 figures, I have no objection to that.

16 MR. LIBBY: I would actually like to do that, if
17 the Court please.

18 THE COURT: So I think we'll ask that a transcript
19 be prepared. Let's put it under seal for now. We'll ask
20 that the transcript be prepared, and then we'll let the
21 parties look at it and see if they want to propose
22 redactions. Okay? And we'll keep it under seal in the
23 meantime.

24 MR. LAZARUS: Thank you, Your Honor.

25 THE COURT: Okay. So we'll take a break now until

1 about 10 past 2. Let's say quarter past 2. And then we'll
2 just resume on this same Zoom. I'm going to turn off my
3 video and sound, and I'm going to turn it back on in about 15
4 minutes.

5 MR. LIBBY: Thank you, Judge.

6 THE COURT: And we definitely can -- or you can
7 call me on my cell phone, Mr. Viera, if you want to talk.

8 THE CLERK: Okay, Judge. Thank you.

9 (Recess taken.)

10 THE COURT: So Leo, do you want to call this part
11 of the case.

12 THE CLERK: Today is Wednesday, October 6, 2021.
13 We are on the record in criminal case number 21-10256, The
14 United States versus Humad. The Honorable M. Page Kelley
15 presiding. Would counsel identify themselves for the record.

16 MR. LAZARUS: David Lazarus and David Derusha on
17 behalf of the United States, Your Honor.

18 THE COURT: Okay. Thank you.

19 MR. WEINREB: Good afternoon, Your Honor. William
20 Weinreb on behalf of Dr. Kingsley Chin.

21 THE COURT: So now we are here to talk about
22 Dr. Kingsley Chin's further conditions of release. I note on
23 the docket it's a sealed document number 30 on page 1. The
24 parties including U.S. probation have agreed to a no contact
25 order that has four parts. I'm not going to read them into

1 the record, but it's on page 1, and we will incorporate that
2 into the conditions of release, which I think Dr. Chin will
3 need to sign again at some point since they've changed.

4 With regard to the secured bond, I note in the
5 sealed order it has the government's position, and then it
6 has the defense position. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 I think you've done a fabulous job, Attorney
12 Weinreb, talking about his background and his strong ties to
13 the community, but I'm inclined to just encumber the home as
14 the government suggests so that he can't further indebt the
15 home, and whatever equity is in the home would go to the
16 government if he flees as the government sets out there.
17 Knowing that that's kind of my inclination, I'm happy to hear
18 you on that.

19 MR. WEINREB: Your Honor, I just want to clarify
20 that the statements that were submitted on -- that the
21 government attached its exhibits to that joint memorandum
22 include his equity in KIC Ventures as part of his net worth,
23 but the number we presented doesn't include it. I don't
24 think that the government, as far as I know, is disputing the
25 fact that that is essentially illiquid. That has potential

1 value, but it has no actual -- it's not like a liquid asset.
2 He can't cash in part of it on the market. He owns shares in
3 some of these companies, but they're not registered with the
4 SEC because it's not a public company. They're just start
5 ups.

6 The remainder of his net worth, really all he -- he
7 has plowed all of his money into those companies, and they
8 are worth a lot. Even though it has gone down quite a bit
9 because of the pandemic, we're not disputing that their book
10 value is considerable. But his actual assets that he can use
11 to, among other things, fund his children's food and clothing
12 and not to mention his defense in this case are money that he
13 can borrow -- money that he earns, money that he can get paid
14 from whatever income those companies are earning, and money
15 that he can borrow against his assets.

16 And to that extent his assets are the house here,
17 which is already quite encumbered, and this piece of property
18 in Jamaica, which is also quite encumbered.

19 The question is, as you put it yourself the last
20 time we were here, not what will give the government security
21 that it will get a certain amount of money if he flees, which
22 is not the purpose of the bail statute obviously. It's what
23 gives him a sufficient incentive not to flee irrespective of
24 what the government gets to collect at the end of the day.

25 An amount that is tantamount to a quarter of what he actually

1 has at his disposal is a very significant amount under the
2 circumstances.

3 Part of the basis for this argument that we have
4 made and the number that we have proposed is that if he is
5 able to borrow more against his house, and that's a question
6 mark, that's something he ought to be able to do. The bail
7 statute isn't here to enrich the government. It's simply to
8 ensure that he won't flee. To the extent that he's got
9 assets and he's able to use them for other purposes, he's
10 supposed to be able to do that. The statute says that it's
11 got to be the least restrictive condition, not the one that
12 is the 100 percent. It's supposed to be the least
13 restrictive condition that will reasonably assure his
14 appearance.

15 So I think what the government is asking for is the
16 most. Pretty much a million dollars bond secured by
17 potentially of up to a million dollars of equity in his
18 house, [REDACTED]. It just
19 doesn't seem to match what the statute calls for.

20 THE COURT: How much equity does he have in his
21 house right now? Is it about 250?

22 MR. WEINREB: In the house in Florida, we don't
23 have a recent appraisal. The parties are relying on Zillow
24 and Redfin to give them a good -- And based on the Redfin
25 estimate, which is the higher one, which we're willing to

1 accept, it's about 400,000. And then for the property in
2 Jamaica, there actually was an appraisal that was done pretty
3 recently. If the Court were inclined, you could Google
4 what's happened with real estate prices in Jamaica. It looks
5 like they've stayed about steady since then. So the Court
6 can take judicial notice about that. That one's got about, I
7 think, 200K or so in equity. That's the equity that he's got
8 on those two properties.

9 THE COURT: Mr. Lazarus, if you can just answer
10 this question, then I'm happy to hear you. Let's say we just
11 did a \$500,000 lien against the house. Are you making some
12 kind of argument in your papers that that still allows him to
13 borrow against the house so that that could encroach on the
14 500,000?

15 MR. LAZARUS: No, Your Honor. If the lien against
16 the property is for \$500,000, then as soon as that's
17 recorded, we have our place in line at 500,000 of the equity.
18 If anything that he borrows after that, if somebody thinks
19 there's more equity and they want to lend to him behind the
20 \$500,000, that wouldn't encroach on our \$500,000.

21 So if the Court is inclined to enter an order
22 restraining up to \$500,000 of equity in the property or
23 securing it that way, that would accomplish that. I would
24 just note that the contents of the three different financial
25 documents the Court has to consider with respect to Dr. Chin

1 is very important. The first two documents, I think it's
2 Exhibits 1 and 2 or 2 and 3, to the joint filing, but they're
3 the government's exhibits, are documents that were signed by
4 the defendant when he was trying to get credit. [REDACTED]

5 [REDACTED]
6 Now when the defendant is before the Court, he
7 would have the Court completely disregard that he owns 99
8 point something percent of this portfolio of companies that
9 Mr. Humad has told the Court repeatedly he's out raising
10 money for around the country.

11 And so the idea that there's this illiquid asset of
12 a company [REDACTED] that he can't touch
13 or get money out of is not necessarily the reality of how
14 that asset works. It can't be sold in a Fidelity account
15 this afternoon, but they're out raising money. [REDACTED]

16 [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 So there are not these assets that are just
25 floating out there nebulously on a piece of paper with

1 nothing behind them. We've told the Court before that there
2 has been millions of dollars that have flown through the
3 accounts for these companies. But they have to be
4 considered.

5 All that being said, if the Court would enter an
6 order up to \$500,000, that would secure up to that amount
7 from his home.

8 THE COURT: So I am curious, Mr. Weinreb, on the
9 government's exhibit that they've attached to their motion,
10 which is document 30-1 at page 14, he lists the current value
11 of his personal residence, [REDACTED]. Marketable
12 securities, [REDACTED]. Real estate investments, [REDACTED]
13 [REDACTED]. So I'm not quite sure what's happened to all of
14 that.

15 MR. WEINREB: The marketable securities line is
16 where he put what's in KIC Ventures. If you look at the
17 form, it doesn't have options for unmarketable securities or
18 for more complicated interest. But these are banks. They're
19 sophisticated entities. This was his simply disclosing what
20 he's got. It's the same thing before this Court.

21 It is true that, you know, Mr. Humad and Mr. Chin
22 are trying to raise money for those companies. They have not
23 kept that as a secret from the government. [REDACTED]
24 [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED] [REDACTED]

1

[REDACTED]

As for the real estate value, when you're applying for a bank loan, you've got to be careful not to overstate the value of your home. If you listed there's less real estate equity than he is telling this Court that he has because it's mixing apples and oranges. I think there's full disclosure. Nobody is hiding anything here. He wasn't hiding anything from the banks. We're not hiding anything from the government. It's all out there.

10

We agree. These are companies that have valuable technology, valuable products. Dr. Chin and Mr. Humad certainly hope that they will -- that value will one day become liquid. But now that the government has indicted both of them, who knows if that's ever going to happen. Even if they hadn't indicted them, it's just the nature of these things, that it could take -- it's not that easy to sell a company.

18

In that sense they're not liquid assets, and I don't think there's any serious dispute about that. So yes, he owns them. But no, they're not assets that he can use as if they were money.

22

THE COURT: I'm going to order the \$500,000 in his home to be posted. Let's say a \$500,000 secured bond against the Florida residence. I'll leave it to the parties to work out -- Well, Mr. Weinreb, you know how to perfect that and

1 get those papers in. How much time would you like to get the
2 papers in?

3 MR. WEINREB: It depends how extensive we're going
4 to have to get.

5 THE COURT: I think we're happy to use a Zillow
6 estimate. I think everyone is doing that now. You don't
7 have to get a formal appraisal of the residence because I
8 think that's really time consuming and expensive. And I
9 think the Zillow or Redfin or some kind of estimate like that
10 is fine.

11 MR. WEINREB: I would say, not to give the
12 overworked civil servants here extra work, but if Mr. Lazarus
13 would be kind enough to give me whatever forms he believes is
14 sufficient.

15 THE COURT: They're on the website. They're on our
16 website. If you can't find them, let us know and we'll see
17 what we can do. They were on the old website. I don't know
18 about the new website. Good luck finding it on the new
19 website. They were on there before.

20 MR. WEINREB: The actual filing of everything,
21 we'll get that done within a week.

22 THE COURT: Okay. Let's say within a week. If it
23 turns out you need more time, that's fine. Just file
24 something. But I think within a week is good.

25 MR. WEINREB: Thank you. And then we've addressed

1 the no contact order. So the Court had indicated that
2 several of the other conditions that are in effect in
3 Florida, namely, the curfew and the bracelet would be -- the
4 need for those would be obviated once the bond was in place.
5 So we'd ask that those conditions be removed.

6 THE COURT: So that we don't have to keep doing
7 multiple versions of the conditions, we'll just keep
8 everything as it is right now. You post the bond. As soon
9 as the bond is posted, I'll go through and remove the curfew
10 and the bracelet. And then we'll add in the other things I
11 talked about today about no contact and the bond obviously on
12 the conditions. And then that will finally be the
13 conditions.

14 Did the parties negotiate any further Dr. Chin's
15 travel to Jamaica to do spinal surgery there, Mr. Lazarus?

16 MR. LAZARUS: The government remains opposed to it,
17 Your Honor. I understood at the prior court hearing that it
18 sounded like the Court had decided to allow that if you were
19 satisfied that he had a legitimate need to go there. We
20 still think that's a very real flight risk. The
21 international travel in particular we would oppose. But I
22 understood the Court had previously addressed that.

23 MR. WEINREB: Just to remind the Court. He goes
24 there about once or twice a month to perform spine surgery.
25 The Court wanted some kind of documentation that he actually

1 did that. So we submitted his medical license and the lease
2 for his office, his clinical office in Jamaica to demonstrate
3 that he does practice medicine there. Just as a reminder, we
4 believe he's the only spine surgeon in Jamaica certified to
5 do spine surgery. He's an important resource there.

6 And then the other request we have, right now his
7 travel is restricted to Florida and the District of
8 Massachusetts. And we had asked that that be changed to the
9 continental United States. He has licenses to practice
10 medicine in other states, in particular Arizona, where he
11 also currently has an office. It's hard to practice medicine
12 when the government has indicted you. It's obviously not
13 great advertising for your practice, but we are hopeful that
14 he is going to be able to overcome that and continue
15 practicing here. I don't know that it would affect anything
16 in Jamaica.

17 THE COURT: I'm just trying to find the place where
18 you filed those things because I did look at them when you
19 filed them.

20 MR. WEINREB: I believe I captioned it
21 Supplemental -- let me pull up the docket here to see if I
22 can find it myself.

23 THE COURT: I think it's number 30.

24 MR. WEINREB: I don't think it's 30.

25 MR. LAZARUS: It appears to be 29.

1 THE COURT: I see. It is 29. Thanks. We've got
2 medical licenses that show that he does have medical
3 licenses. I guess my question is is he under review? Are
4 they pulling any of these?

5 MR. WEINREB: I should have said this at the outset
6 of the hearing which is we filed some of these matters under
7 seal with the Court's permission, and we'd just ask for the
8 same opportunity to redact the transcript with respect to
9 matters that ordinarily wouldn't be matters of public record.
10 That's, in part, the financial details of his company and
11 what it's worth and all of that.

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 THE COURT: Thank you. I guess my concern about
8 the travel is the government's objection to his going to
9 Jamaica. If he's the only spine surgeon there, and he goes
10 there, I thought last time it was once a month, now it's
11 twice a month to perform spine surgery. I guess I see that
12 he's rented a place there, but I don't really see any
13 evidence of his being the only spine surgeon or that he's
14 performing spine surgery there somewhere. I get it that he's
15 renting an office there. Does he have --

16 MR. WEINREB: It is listed on the lease as a
17 clinical office. That's at the very end of the document.
18 But it's not like a --

19 THE COURT: Does he perform spine surgery in his
20 office?

21 MR. WEINREB: I believe the office is effectively
22 like an ASC, ambulatory surgical center. Unfortunately,
23 because he's not here, I can't clarify with him. But my
24 understanding is that he can do these surgeries, it's not
25 exactly outpatient, but he can do them outside of a hospital.

1 As for his being the only spine surgeon, I'm not sure exactly
2 how we would prove that. I think that's probably something
3 you just know if you're a spine surgeon in Jamaica that you
4 don't have any colleagues there doing the same thing.

5 I'm not sure the government disputes that he
6 performs spine surgery in Jamaica. If it does or has a
7 question about it, I can try to get further documentation of
8 it.

9 MR. LAZARUS: I was going to say I have no idea
10 what he's doing in Jamaica right now. I know from looking at
11 documents in the past he's had various professional contacts
12 with Jamaica, and he's also had personal contacts with
13 Jamaica. I don't have any reason not to believe Mr. Weinreb
14 of course. I just have no idea as I sit here what Dr. Chin
15 is or is not doing in Jamaica.

16 THE COURT: I guess another issue would be let's
17 say he somehow flees to Jamaica and he has property there,
18 etc., I don't really think it would be that hard to fine find
19 him in Jamaica, right, Attorney Lazarus?

20 MR. LAZARUS: We've successfully located and
21 extradited fugitives in Jamaica in the past. The marshals
22 are very good at their job. Once he's in Jamaica, however,
23 he's outside the purview of the United States. So anywhere
24 he chooses to go from there, noting of course that it is an
25 island, and there are other islands nearby. So who knows?

1 The risk is not as much that he would disappear in Jamaica
2 which is a risk with some countries. The risk is that once
3 he's in Jamaica, there's no more control, that he can go
4 wherever he wants.

5 THE COURT: I do think he seems to have a lot of
6 ties to the United States including this home here that he
7 would lose, his family, children. He seems to be in a lot of
8 trouble, but he's fairly well known. It seems like he does
9 have a lot of earning potential, whether he gets in trouble
10 on this case or not.

11 So I'm inclined to let him go to Jamaica if he's
12 performing spine surgery there. I think we might keep this
13 to once a month though, Attorney Weinreb. And I see that
14 you're nodding. Because I think that's what you were saying
15 last time.

16 MR. WEINREB: I may have said that. My memory is
17 what he told me was once or twice a month. I'm sure once is
18 going to be sufficient given the circumstances he's under.

19 THE COURT: Why does he need to travel all over the
20 United States? I know he has licenses in various states.

21 MR. WEINREB: Well, he has two forms of earned
22 income. One of which is actually performing, being a doctor
23 or treating patients. And the other is teaching physicians
24 how to do particular spine surgical techniques, just
25 techniques themselves and others involving surgical implants.

1 That's pretty common. As the Court may know, in the medical
2 device industry, that's extremely common. And I believe some
3 of these techniques are of sufficient difficulty and
4 sophistication that the doctors can't even get certified to
5 do them unless somebody like him who knows how to do them and
6 is able to be there to not only teach them but kind of
7 proctor, be present for the whole thing. And that occurs in
8 a lot of different places, and it's not limited to the places
9 where he has a medical license.

10 There seems to be little reason -- I understand,
11 where it says the continental United States, I never really
12 understood why Hawaii and Alaska are such a flight risk. Be
13 that as it may, I don't think he's got any business there.
14 So the continental United States is not an unusual travel
15 limitation in white collar cases like these. I just think it
16 will be vastly simpler for probation and for the Court if
17 that's the limitation as opposed to a list of states.

18 He might have a connecting flight through a state.
19 Again, it's supposed to be the least restrictive set of
20 conditions that will reasonably assure his appearance and not
21 the theoretical ideal.

22 THE COURT: I'm inclined to allow business-related-
23 only travel throughout the continental United States and to
24 Jamaica once a month with notice and explanation to probation
25 so they know where he is. So we'll do all this once you get

1 the bond posted, Mr. Weinreb. And once the conditions go up,
2 then he'll need to review them and sign them again. And you
3 can take a look at them, and you, too, Mr. Lazarus and see if
4 you have any tweaks you want to do before he signs them.

5 MR. WEINREB: Very well.

6 THE COURT: So thank you both very much. If
7 there's nothing else, we'll terminate the hearing. Thank
8 you.

9 (Court recessed at 2:40 p.m.)

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CERTIFICATION

I certify that the foregoing is a correct transcript of the record of proceedings in the above-entitled matter to the best of my skill and ability.

/s/ Joan M. Daly

December 8, 2021

Joan M. Daly, RMR, CRR
Official Court Reporter

Date